

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MONSANTO COMPANY and
MONSANTO TECHNOLOGY LLC,

Plaintiffs,

v.

E.I. DUPONT DE NEMOURS and
COMPANY AND PIONEER HI-BRED
INTERNATIONAL, INC.

Defendants.

Civil Action No. 4:09-CV-00686-ERW

**JOINT MOTION TO ESTABLISH STIPULATED PAGE LIMITS
FOR MARKMAN BRIEFS OR, IN THE ALTERNATIVE,
FOR LEAVE TO FILE BRIEFS IN EXCESS OF FIFTEEN PAGES**

The parties, by and through their respective counsel of record, hereby jointly request the Court to enter an Order establishing stipulated page limits to apply to the parties' respective Markman briefs or, in the alternative, for leave to file briefs in excess of fifteen pages, exclusive of the signature pages and attachments. In support of this motion, the parties state:

1. Pursuant to the Court's Case Management Order of March 3, 2010 (Doc. No. 178), the parties' respective opening Markman briefs are to be filed and served by July 9, 2010, and the parties' respective responsive Markman briefs are to be filed and served by August 6, 2010.

2. Neither the Case Management Order providing for briefing on Markman issues nor the Local Rules of this Court, specifically address the appropriate length of Markman briefs. E.D. Mo. Local Rule 7-4.01(d), while directed to motion procedures generally, provides, "No party shall file any motion, memorandum or brief which exceeds fifteen (15) numbered pages,

exclusive of the signature page and attachments, without leave of Court.” The parties have conferred and stipulate between themselves that in order to adequately address the issues in dispute in their respective Markman briefs, the opening briefs should not exceed forty-five (45) pages, exclusive of signature pages and attachments. The parties have agreed to cooperate on the appropriate length of the responsive brief after reviewing the opening briefs.

WHEREFORE, the parties respectfully request the Court to enter an order establishing page limits for their Markman briefs, providing that the opening briefs should not exceed forty-five (45) pages, exclusive of signature pages and attachments. In the alternative, the parties respectfully request leave to file opening Markman briefs in excess of fifteen pages, exclusive of the signature pages and attachments.

Dated: July 8, 2010

Respectfully submitted,

HUSCH BLACKWELL SANDERS LLP

LEWIS, RICE & FINGERISH, L.C.

/s/ Joseph P. Conran .

Joseph P. Conran, E.D.Mo. # 6455
Omri E. Praiss, E.D.Mo. # 35002
Greg G. Gutzler, E.D.Mo. # 84923
Tamara M. Spicer, E.D.Mo. # 122214
Steven M. Berezney, E.D.Mo. # 499707
190 Carondelet Plaza, Suite 600
St. Louis, MO 63105
Telephone: 314-480-1500
Facsimile: 314-480-1505

/s/ Andrew Rothschild .

Andrew Rothschild
C. David Goerisch
500 N. Broadway, Suite 2000
St. Louis, MO 63102
Telephone: 314-444-7600
Facsimile: 314-241-6056

MCDERMOTT WILL & EMERY LLP
Steven G. Spears (admitted *pro hac vice*)
Scott W. Clark (admitted *pro hac vice*)
1000 Louisiana Street, Suite 3900
Houston, TX 77002
Telephone: 713-653-1700
Facsimile: 713-739-7592

KAYE SCHOLER, LLP
Leora Ben-Ami (admitted *pro hac vice*)
Thomas F. Fleming (admitted *pro hac vice*)
Christopher T. Jagoe
425 Park Avenue
New York, NY 10022
Telephone: 212-836-8000
Facsimile: 212-836-8689

COVINGTON & BURLING LLP

Kurt G. Calia (admitted *pro hac vice*)
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401
Telephone: 202-662-5602
Facsimile: 202-662-6291

WINSTON & STRAWN LLP

Dan K. Webb (admitted *pro hac vice*)
Todd J. Ehlman (admitted *pro hac vice*)
35 W. Wacker Drive, Suite 4200
Chicago, IL 60601
Telephone: 312-558-5600
Facsimile: 312-558-5700

John J. Rosenthal (admitted *pro hac vice*)
Matthew Campbell (admitted *pro hac vice*)
1700 K Street, N.W.
Washington, D.C. 20006
Telephone: 202-282-5000
Facsimile: 202-282-5100

ARNOLD & PORTER LLP

Anthony J. Franze (admitted *pro hac vice*)
555 Twelfth Street, N.W.
Washington, D.C. 20004
Telephone: 202-942-5000
Facsimile: 202-942-5999

Attorneys for Monsanto Company and
Monsanto Technology LLC

BOIES, SCHILLER & FLEXNER LLP

Donald L. Flexner (admitted *pro hac vice*)
575 Lexington Avenue, 7th Floor
New York, New York 10022
Telephone: 212-445-2300
Facsimile: 212-446-2350

James P. Denvir (admitted *pro hac vice*)
Amy J. Mauser (admitted *pro hac vice*)
5301 Wisconsin Avenue, N.W.
Washington, D.C. 20015
Telephone: 202-237-2727
Facsimile: 202-237-6131

Cynthia M. Christian (admitted *pro hac vice*)
121 South Orange Avenue, Suite 840
Orlando, Florida 32801
Telephone: 407-425-7118
Facsimile: 407-425-7047

Attorneys for E.I. DuPont de Nemours and
Company and Pioneer Hi-Bred International,
Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 8th day of July, 2010, the foregoing was filed electronically to the Clerk of Court for the United States District Court Eastern District of Missouri, Eastern Division and served by ECF notice by operation of that Court's electronic filing system upon the following:

Andrew Rothschild, Esq.
C. David Goerisch, Esq.
LEWIS, RICE & FINGERSH, L.C.
500 N. Broadway, Suite 2000
St. Louis, MO 63102

Leora Ben-Ami, Esq.
Thomas F. Fleming, Esq.
Christopher t. Jagoe, Esq.
KAYE SCHOLER LLP
425 Park Avenue
New York, NY 10022

Donald L. Flexner, Esq.
BOIES, SCHILLER & FLEXNER LLP
575 Lexington Avenue, 7th Floor
New York, NY 10022

James P. Denvir, Esq.
Amy J. Mauser, Esq.
BOIES, SCHILLER & FLEXNER LLP
5301 Wisconsin Avenue, N.W.
Washington, DC 20015

Attorneys for Defendants

/s/ Joseph P. Conran